

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES W. WIRTZ, III,

Plaintiff,

vs.

**Case No.: 2:11-cv-1131
JUDGE GEORGE C. SMITH
Magistrate Judge Kemp**

TIMOTHY BUCHANAN, *et al.*,

Defendants.

ORDER

On January 30, 2013, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's First Motion for Summary Judgment be granted on the issue of exhaustion, that Plaintiff's Second Motion for Summary Judgment be denied, and that Defendants' Motion for Summary Judgment be granted. (*Report and Recommendation*, Doc. No. 39). This matter is now before the Court on Plaintiff's Objections to the Report and Recommendation. (*Objection*, Doc. No. 48). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The objections present, once again, the issues presented to and considered by the Magistrate Judge in the *Report and Recommendation*. For the reasons stated in the *Report and Recommendation*, this Court agrees that the objections are without merit and hereby

OVERRULED.

The *Report and Recommendation*, Doc. No. 39, is **ADOPTED** and **AFFIRMED**.

Plaintiff's first Motion for Summary Judgment (Doc. 24) is hereby **GRANTED** on the issue of exhaustion. Plaintiff's second Motion for Summary Judgment (Doc. 30) is **DENIED**.

Defendants' Motion for Summary Judgment (Doc. 34) is **GRANTED**.

The Clerk shall remove Documents 24, 30, 34, and 39 from the Court's pending motions list.

The Clerk shall remove this case from the Court's pending cases list.

IT IS SO ORDERED.

/s/ George C. Smith

GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT